

FPS-482

September 29, 2005

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 05-3870

Barnes v. Domitrovich
(W.D. Pa. No. 03-cv-389)

To: Clerk

1) Motion for Leave to Proceed In Forma Pauperis

The foregoing Motion to proceed in forma pauperis is granted. Appellant is a prisoner seeking to proceed in forma pauperis on appeal and is, therefore, required to pay the full \$ 255.00 in docketing and filing fees in installments regardless of the outcome of the appeal. Appellant has completed and filed the required authorization form permitting the appropriate prison officials to assess, collect and forward to the District Court the filing and docketing fees for this appeal pursuant to 28 U.S.C. §§ 1915(b)(1) and (2). Accordingly, the Court hereby directs the warden, or his or her designee, to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to the prisoner's account; or (b) the average monthly balance in the prisoner's account for the six month period immediately preceding the filing of the notice of appeal. The warden, or his or her designee, shall calculate, collect, and forward the initial payment assessed in this order to the United States District Court for the Western District of Pennsylvania. In each succeeding month when the amount in the prisoner's account exceeds \$10.00, the warden, or his or her designee, shall forward payments to the United States District Court for the Western District of Pennsylvania equaling 20% of the preceding month's income credited to the prisoner's account until the fees are paid. Each payment shall reference the appellate docket number for this appeal.

This appeal will be submitted to a panel of the Court for determination under 28 U.S.C. § 1915(e)(2). The Court also will consider any other appropriate action, such as summary affirmance of the order of the District Court. See Rule 27.4, Third Circuit Local Appellate Rules.



Dated: October 3, 2005

SLC/cc: Mr. Bennie E. Barnes

A. Taylor Williams, Esq.

Mark E. Mioduszewski, Esq.

Paul M. Thompson, Esq.

Edmond R. Joyal, Jr., Esq.

For the Court,

/s/ Marcia M. Waldron
Clerk

Marcia M. Waldron

Marcia M. Waldron, Clerk